

House File 578 - Introduced

HOUSE FILE _____
BY ISENHART, SCHUELLER, and
BEARD

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to denials of lease extensions for barge fleeting
2 areas on the public waters of the state in sites adjacent to
3 national monuments or registered landmarks.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2123YH 83
6 av/sc/8

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1 1 Section 1. Section 461A.25, Code 2009, is amended to read
1 2 as follows:
1 3 461A.25 LEASES AND EASEMENTS.
1 4 1. The commission may recommend that the executive council
1 5 lease property under the commission's jurisdiction. All
1 6 leases shall reserve to the public of the state the right to
1 7 enter upon the property leased for any lawful purpose. The
1 8 council may, if it approves the recommendation and the lease
1 9 to be entered into is for five years or less, execute the
1 10 lease in behalf of the state and commission. If the
1 11 recommendation is for a lease in excess of five years, with
1 12 the exception of agricultural lands specifically dealt with in
1 13 Article I, section 24 of the Constitution of the State of
1 14 Iowa, the council shall advertise for bids. If a bid is
1 15 accepted, the lease shall be let or executed by the council in
1 16 accordance with the most desirable bid. The lease shall not
1 17 be executed for a term longer than fifty years. Any such
1 18 leasehold interest, including any improvements placed on it,
1 19 shall be listed on the tax rolls as provided in chapters 428
1 20 and 443; assessed and valued as provided in chapter 441; taxes
1 21 shall be levied on it as provided in chapter 444 and collected
1 22 as provided in chapter 445; and the leasehold interest is
1 23 subject to tax sale, redemption, and apportionment of taxes as
1 24 provided in chapters 446, 447, and 448. The lessee shall
1 25 discharge and pay all taxes.

1 26 2. The commission shall adopt rules providing for granting
1 27 easements to political subdivisions and utility companies on
1 28 state land under the jurisdiction of the department. An
1 29 applicant for an easement shall provide the director with
1 30 information setting forth the need for the easement,
1 31 availability of alternatives, and measures proposed to prevent
1 32 or minimize adverse impacts on the affected property. An
1 33 easement shall be executed by the director, approved as to
1 34 form by the attorney general, and if granted for a term longer
1 35 than five years, approved by the commission.

2 1 3. a. If the commission refuses to recommend the issuance
2 2 of a lease extension to a barge fleet operator for a barge
2 3 fleeting area on the public waters of the state in a site
2 4 adjacent to a national monument or registered landmark, the
2 5 barge fleet operator may petition the county board of
2 6 supervisors of the county where the barge fleeting area is
2 7 located, to make a determination of whether the denial will
2 8 create an undue hardship for the barge fleet operator and the
2 9 users of barge fleeting services in the area. The county
2 10 board of supervisors shall make such a determination after
2 11 public notice and hearing and transmit that determination to
2 12 the commission.

2 13 b. Upon receiving a determination from a county board of
2 14 supervisors that denial of the lease extension for a barge
2 15 fleeting area will create such an undue hardship, the
2 16 commission shall recommend to the executive council that the
2 17 lease be extended to the petitioning barge fleet operator for
2 18 as long as the board of supervisors determines that the

2 19 hardship exists but not for a term longer than fifty years as
2 20 provided in subsection 1.

2 21 c. The commission shall adopt rules pursuant to chapter
2 22 17A for the administration of this subsection.

2 23 d. For the purposes of this subsection:

2 24 (1) "Barge fleeting area" means an area within defined
2 25 boundaries used to provide barge mooring service and to
2 26 accommodate ancillary harbor towing under care of a fleet
2 27 operator and does not include momentary anchoring or tying off
2 28 of tows in transit and under care of a line haul towboat.

2 29 (2) "Lease" means a lease as authorized under this section
2 30 for the purpose of authorizing a barge fleeting area.

2 31 4. For the purposes of this section, property under the
2 32 commission's jurisdiction does not include an area of the bed
2 33 of a lake or river occupied by a dock or other appurtenance or
2 34 means of access to a dock, including but not limited to boat
2 35 hoists and boat slips, or occupied by a boat ramp, constructed
3 1 or installed and maintained under littoral or riparian rights.

3 2 EXPLANATION

3 3 This bill amends Code section 461A.25 to provide that if
3 4 the natural resource commission refuses to recommend that the
3 5 executive council issue a lease extension to a barge fleet
3 6 operator for a barge fleeting area on the public waters of the
3 7 state in a site adjacent to a national monument or registered
3 8 landmark, the barge fleet operator may petition the county
3 9 board of supervisors where the barge fleeting area is located,
3 10 to make a determination of whether the denial of the lease
3 11 extension will create an undue hardship for the barge fleet
3 12 operator and the users of barge fleeting services in the area.
3 13 The determination shall be made after public notice and
3 14 hearing and transmitted to the commission.

3 15 Upon receiving such a determination of undue hardship from
3 16 a county board of supervisors, the commission must recommend
3 17 to the executive council that the lease be extended to the
3 18 petitioning barge fleet operator for as long as the board of
3 19 supervisors determines that the hardship exists but not for a
3 20 term longer than 50 years as provided in Code section
3 21 461A.25(1). The commission is required to adopt rules
3 22 pursuant to Code chapter 17A for the administration of the new
3 23 provisions.

3 24 For the purposes of the bill, a "barge fleeting area" means
3 25 an area within defined boundaries used to provide barge
3 26 mooring service and to accommodate ancillary harbor towing
3 27 under care of a fleet operator and does not include momentary
3 28 anchoring or tying off of tows in transit and under care of a
3 29 line haul towboat. "Lease" means a lease as authorized under
3 30 Code section 461A.25 for the purpose of authorizing a barge
3 31 fleeting area.

3 32 LSB 2123YH 83

3 33 av/sc/8.2